

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Jose Luis Zacarias, Jr.,

Defendant.

Criminal No. 13-215 (SRN/SER)

**REPORT AND
RECOMMENDATION**

Nathan P. Petterson and Michael L. Cheever, Esqs., United States Attorney's Office, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for Plaintiff.

Shannon R. Elkins, Esq., Office of the Federal Defender, 300 South Fourth Street, Suite 107, Minneapolis, Minnesota 55415, for Defendant.

STEVEN E. RAU, United States Magistrate Judge

The above-captioned case came before the undersigned on Defendant Jose Luis Zacarias, Jr.'s ("Zacarias") Pretrial Motion to Suppress Statements, Admissions, and Answers ("Mot. to Suppress") [Doc. No. 17]. This matter has been referred to the undersigned for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and District of Minnesota Local Rule 72.1. A hearing was held on October 1, 2013 on this Motion and the parties' other pretrial motions.

Zacarias alleges that his July 11, 2013 statements "were made without the assistance or benefit of counsel in violation of defendant's Fifth Amendment and Sixth Amendment rights under the Constitution of the United States." (Mot. to Suppress at 2). The meet-and-confer statement filed with Zacarias's Motion states that Plaintiff the United States of America does not

intend to introduce Zacarias's statements at trial during its case-in-chief. (*Id.*) The Court confirmed this during the hearing.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that Defendant Jose Luis Zacarias, Jr.'s Pretrial Motion to Suppress Statements, Admissions, and Answers [Doc. No. 17] be **DENIED as moot**.

Dated: October 1, 2013

s/ Steven E. Rau
STEVEN E. RAU
United States Magistrate Judge

Under D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving all parties by **October 15, 2013**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Court of Appeals.